

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

CHAMBERS SUMMONS NO. 1157 OF 2004

IN

SUIT NO. 1312 OF 1980

The Cotton Corpn. of India Ltd. ... Plaintiffs

V/s

Madura Coats Ltd. ... Defendants

Mr. H.J. Thakker with U.M.Mahajan i/by Divekar & Co.
for the plaintiffs.

Mr. B. Zaiwala with E. Kotwal i/by P.J. Ranga for
the defendants.

CORAM: P.V. KAKADE, J.

DATED: 26TH AUGUST, 2004.

P.C.:

1. Heard both sides.

2. The defendants have taken out this chamber summons for discovery of documents pertaining to all contracts for import of cotton of Brazilian variety June/July 1977 shipment set out in the circular issued by the plaintiffs dated 21.2.1997 alongwith shipment documents in respect of cotton of Brazilian variety. The chamber summons also seeks to disclose all the plaints filed by the plaintiffs in this Court or any other Court in

respect of disputes concerning the imported cotton of Brazilian variety imported during the said period.

3. I have heard the learned counsel for both parties. Perused the affidavit in support.

4. It is to be noted that plaintiffs' witness is in the witness box and under cross-examination. In the course of the cross-examination, the witness gave certain answers to the questions put to him on behalf of the defendants about those contracts and the answers were that the witness was unable to remember how many other contracts in that regard were entered into by the plaintiffs with other mills. This appears to be the foundation for the present chamber summons. So far as the stage of seeking discovery is concerned, the law is well settled that it can be sought for at any stage if it is found necessary in the interest of justice.

4. It was submitted on behalf of the plaintiffs that it is nothing but a fishing expedition to seek discovery of this nature because the contract involved in this suit pertains to only defendants' transactions with the plaintiffs and are not relevant enough in that sense with other contracts entered into by the plaintiffs

which Cotton Corporation of India i.e. Public Body which was sole analyzing agency for Central Government to supply imported cotton.

In this regard, it must be noted that Clause 3 of the contract stipulates that the contract with the defendants entered into by the Corporation with the variety suppliers shall form an integral part of the agreement and this agreement shall always be treated as subject to the terms and conditions of the said import contract. It is the case of the defendants that they had put order for Brazilian Cotton but it was not so supplied. The cross-examination appears to be with that reference of non-supply of Brazilian Cotton alleging that Brazilian Cotton was supplied to some other mills and, therefore, the discovery is sought for to ascertain whether such cotton was supplied to any other mills excluding the defendants. In view of this position, I am of the view that the disclosure sought for is for relevant documents so far as contracts of Brazilian cotton which were entered into by the plaintiffs during the period June/July 1977 shipment are concerned. So far as other prayers in the chambers summons are concerned, I do not see it necessary to go into these details as those would exceed the scope of the enquiry

which is not required at this stage.

5. Hence, the chamber summons is made absolute in terms of prayer clause (a)(i) to the extent that the plaintiffs shall disclose all contracts of import of cotton of Brazilian variety in June/July 1977 shipment set out in circular dated 21.2.1997. The disclosure shall be made within four weeks from the date of this order. The stage of recording of evidence of parties shall be fixed thereafter.

The chamber summons stands disposed of accordingly.

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